Government of Canada Gouvernement du Canada

Canada

CANADIAN HUMAN RIGHTS COMMISSION
www.chrc-ccdp.ca

Resources

News Room

Speeches

2008 | 2007 | 2006 | 2005 | 2004 | 2003

19/08/2008

Addressing the Parallel Meeting of the Advisory Council of Jurists during the 13th Annual Meeting of the Asia Pacific Forum of Nastional Human Rights Institutions

Speaking notes for

Jennifer Lynch, Q.C.

Chair of the the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights
and
Chief Commissioner
of the Canadian Human Rights Commission

Addressing the Parallel Meeting of the Advisory Council of Jurists
during the 13th Annual Meeting of the Asia Pacific Forum of
National Human Rights Institutions

Tuesday, July 29, 2008
14:30 TO 14:45
Penang 1 and 2, Level 3
Hotel Imperial
Kuala Lumpur, Malaysia

Check Against Delivery

Good afternoon, ladies and gentlemen.

I appreciate very much the opportunity to speak at this closed session.

I thank Mr. Kieren Fitzpatrick, the Director of the APF, and Mr. Greg Heesom, APF Legal Counsel, for arranging my participation in this event.

I attended my first APF regional meeting last year and was so impressed – it is one of the best organized and most interesting conferences in our field.

The APF serves as an excellent example of how powerful results and practical solutions can be achieved from our collective strengths.

I was particularly struck by the genius of having a Council of Jurists, as well as holding your meetings in parallel to the APF's.

This provides opportunities for many types of interactions throughout the week, between Chairs of National Institutions and yourselves.

I've spoken about this idea in my own country, and in other regions, as a practice well worth emulating.

When Kieren first told me of your topic for this year, I was thrilled.

It is one that has been of personal interest and focus to me and has also been identified by some of our national institutions as an area of future work and involvement for the ICC.

In my view, there is huge potential in developing roles for National Institutions in business, and in corporate social responsibility.

This role is just starting to be articulated.

I am grateful to have this moment early in your deliberations to share some thoughts with you.

Recognizing that your terms of reference are most specifically focused on the provision of legal opinions, I also noted that you have been asked to provide views on the potential roles of National Human Rights Institutions, and this will be my narrow focus this afternoon.

First, I'll start with some context about the ICC – who we are and what we do.

I will provide you with an update of our recent activities in examining how the ICC can support National Institutions and business.

Next, I know that you are interested in existing practices of National Institutions, and as my own Commission – the Canadian Human Rights Commission – is active in working with business in Canada, I will describe what we are doing.

This goes well beyond recourse mechanisms for human rights and includes methodologies for encouraging organizational culture change.

ICC - context

"ICC" stands for the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

Our organization is about 15 years old. The purpose of the ICC is to promote and strengthen National Human Rights

Institutions.

The ICC supports these organizations in ensuring that human rights are being effectively promoted and protected in their respective countries. This is achieved through conferences, training, working groups, and assistance at the national level.

The ICC also accredits National Institutions that meet rigorous human rights standards, known as "The Paris Principles."

We have four regional groups: the Asia-Pacific region, Africa, Europe, and the Americas.

There are now over 60 NHRIs holding 'A' Status within the ICC, with the numbers growing yearly.

We have had tremendous success in establishing the ICC, and its members, as credible partners of the international human rights system.

The ICC is the principal representative of NHRIs on the international stage.

When member organizations identify gaps in human rights protection, the ICC brings the issue to the attention of the international community through the United Nations.

Participating in Human Rights Council sessions and contributing to emerging mechanisms, such as the Universal Periodic Review (UPR), have been vital to our success.

Our recent achievements can also be attributed to the support we have received from the APF members, and other partners such as the UN High Commissioner for Human Rights, academia, NGOs and civil society.

ICC, NHRIs and business: examining how the ICC can support National Institutions and business

International collaboration and partnership are redefining our world.

The ability for people around the world to communicate and work together with seamless efficiency contributes to solving many problems, yet it also creates new challenges.

The challenges associated with promoting economic growth, ensuring environmental sustainability and protecting human rights are no longer constrained by borders.

They belong to the international community.

Millions of people have been lifted out of poverty by the economic forces of globalization.

But these same forces have had adverse impacts on the rights of workers and their communities.

In short, many companies hide behind domestic laws.

Business practices that are completely unacceptable in the eyes of the international community are still legal in some countries where transnationals operate.

Laws and enforcement are not the only solution.

The corporate sector is increasingly recognized as a key partner in the protection and promotion of human rights.

NHRIs are well positioned to work with business and serve as a catalyst in advancing this important issue.

This fact was underscored by a recent survey conducted by the Office of the United Nations High Commissioner for Human Rights.

The survey concluded that NHRIs are in a unique position to address challenges raised under this framework.

They can facilitate dialogue and collaboration among key stakeholders from business, government, NGOs and civil society.

In this capacity, National Human Rights Institutions could:

- monitor the State's duty to protect human rights in the corporate sector;
- encourage corporate responsibility to respect human rights; and

(3) promote the need for effective remediation of human rights violations linked to the corporate sector.

The UN Special Rapporteur on CSR, John Ruggie, also suggested that NHRIs could hold business accountable. In his report entitled: *Protect, Respect and Remedy: a Framework for Business and Human Rights*, Mr. Ruggie wrote:

"According to the research carried out under the mandate, of the 85 recognized national human rights institutions (NHRIs) at least 40 are able to handle grievances related to the human rights performance of companies.

Of these, 31 are accredited under the Paris Principles. Some mandates are limited to human rights abuses alleged against State-owned enterprises or private companies providing public services.

Others can address grievances against any kind of company, but only with regard to specific kinds of human rights-related grievances, often discrimination.

A third group – notably in Africa – admits grievances against all companies with regard to any human rights issue.

The actual and potential importance of these institutions cannot be overstated.

Where NHRIs are able to address grievances involving companies, they can provide a means to hold business accountable.

NHRIs are particularly well positioned to provide processes – whether adjudicative or mediation-based – that are culturally appropriate, accessible, and expeditious.

Even where they cannot themselves handle grievances, they can provide information and advice on other avenues of recourse to those seeking remedy.

Through increased interchange of information, they could act as lynchpins within the wider system of grievance mechanisms, linking local, national and international levels across countries and regions.

NHRIs that do not currently publicize information about their business-related work should do so.

In his report, Mr. Ruggie specifically welcomed plans on the part of the International Coordinating Committee of NHRIs, supported by OHCHR, to address the issue of how this work might be further strengthened.

This reference in Mr. Ruggie's report is to the actions the ICC has taken in examining how it can support National Institutions and business.

Recognizing the need for NHRIs to better understand these issues, the ICC held parallel and plenary events at our general session in Geneva last April focusing on business and human rights.

As you will have learned, the Danish Institute for Human Rights has been a strong leader in this field for a decade. Four weeks ago, they sponsored an Exploratory Group of over 20 National Institutions.

This exercise determined that the approaches and experiences in dealing with human rights and business vary greatly from one institution to the next.

Some preliminary ideas have emerged as to how NHRIs can cooperate with the international human rights system.

These are not official positions of the ICC - they will be discussed when we meet in Kenya in October - however, I offer these ideas for your consideration during your deliberations this week:

- NHRIs may research and define State parties' and transnational corporations' obligations under international instruments;
- NHRIs may actively, in an independent capacity, participate in the Treaty Body process. For example, they may submit parallel reports on human rights and business related matters; or initiate interactive dialogues with States, to ensure that these matters are included in the reporting process.
- NHRIs may hold consultations with relevant stakeholders (including business and victims of abuse) and publish their findings in annual reports or other media;
- NHRIs may engage directly with the corporate sector in many ways; e.g.:facilitate dialogue amongst stakeholders, such as victims and transnational corporations;

Develop tools and provide human rights impact assessments, training and information sessions enter into Memoranda of Understanding that combines corporate commitments with National Institution support

The Canadian Human Rights Commission

The Canadian Human Rights Commission has developed its own theory and practice around National Institutions and business.

Of course, for National Institutions to monitor business, they need a mandate to do so.

Some have a partial mandate - my own Commission is an example of a partial mandate.

At the Canadian Human Rights Commission, we regulate human rights and employment equity compliance for a certain segment of Canadian business.

We work with industries that are federally regulated, such as transportation, banking and telecommunications.

Our jurisdiction covers employees, and services.

We also regulate every federal government department and agency.

Overall, we have 600 such organizations, with about 1 million employees.

Originally known as a 'complaints processing' and 'compliance' Commission, we have been working more recently to take an integrated systems approach.

What do I mean by this?

We see human rights complaints as the 'back end' of the process.

One human rights complaint resolved does not normally equal systemic change.

We know that if we are to truly meet our mission – which is to give effect to the principle that every individual has the right equal with others to make for themselves the life they are able and wish to have – we need to shift our focus to the 'front end' of human rights conflicts.

This translates into encouraging the organizations that we work with to fully integrate human rights into their daily practices so that violations are prevented.

If conflict does arise, it is managed immediately.

As we articulate it, an integrated human rights system has two components:

- The first is a 'dispute resolution' structure – places and ways for raising and resolving human rights complaints. At the Commission, we provide a formal recourse process. We also work with the employers whom we regulate to help them develop and modernize their own internal recourse processes.
- The second is 'organizational support' that fosters and sustains a culture in which human rights are part of daily practice.

This includes such things as overarching policies, building employment equity measures into business plans, measuring human rights as a core competency and supporting it with training, modernizing communications in tone and content.

The Commission now partners with major organizations to implement discrimination prevention initiatives.

At the core of our work is our theory that success in fulfilling the pledge of Corporate Social Responsibility can only be achieved when a corporation's internal culture is aligned with the expectations it sets for its frontline employees.

Methodologies for achieving this objective can be found by examining work being done in the relatively new field of Integrated Conflict Management Systems (ICMS).

The CHRC is developing a tool that organizations can use to promote and monitor human rights integration within the organization.

Called a "Human Rights Maturity Model," it is both a roadmap and a measurement tool.

The Maturity Model is based on the Integrated Conflict Management System Maturity Model developed by the United States Department of Homeland Security.

It was produced for its airport security employees, inspired by a well-known tool, the "People Capability Maturity Model".

The Model identifies observable and therefore measurable activities at each of five levels, from initiation and definition to sustainability.

It is important to note that this exercise is voluntary.

It is over and above our corporate partners' regulatory obligations.

Our partner companies enthusiastically embrace these concepts because they recognize that this activity will benefit their business and strengthen their reputations.

Human rights for employees are of course part of the articulation in CSR. So far, we have not seen a great deal of emphasis on employees and the importance of internal culture shifts.Mr. Ruggie's report did make certain references to this. He articulates the State's duty to protect, and the corporate responsibility to respect, human rights. He emphasizes the importance of the need for Governments to ensure that human rights compliance becomes part of defining corporate cultures respectful of rights. He provides some examples of how corporations can demonstrate their responsibility to respect human rights through positive steps such as workplace anti-discrimination policies and specific recruitment and training programs. This is a good start - the language of 'corporate cultures respectful of rights' is there- yet in my view, it deserves more emphasis and needs a broader definition. A reference in your report that expands on Mr. Ruggie's articulation about the importance of internal corporate culture change would help to inform the work of National Institutions whose mandates allow them to go beyond remedies, to focus on discrimination prevention. A 'corporate culture respectful of rights' is one that complies with human rights laws, yes; but it can be so much more. A corporate culture respectful of rights should also include the organizational support that I detailed a few minutes ago. For corporations to truly be positioned to fulfill their external human rights moving to such a corporate culture becomes an imperative first step.This in my respectful view is a major contribution that your Council can make, and an area where the more fully developed, broadly mandated National Institutions can show leadership.

At a time when many are skeptical that the signing of the Global Compact has become more 'lip service' rather than a commitment to measurable action, there is huge potential for this to be the catalyst for change.

Conclusion

Cooperation amongst NHRIs, academia, research centres, NGOs and civil society will be a vital contribution to effectively advancing the CSR agenda.

I am personally committed to finding ways to bring greater international attention to the issue of corporate social responsibility and promoting the work of National Institutions and the ICC in this area.

The ICC would welcome the opportunity to support or facilitate collaboration and consultations with the ACJ and others on the issue of Corporate Social Responsibility.

We invite the guidance of the ACJ as we explore developing a program for the ICC on human rights and business.

-30-

Last Updated: 2004-07-06